

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 553

Introduced by Senator Aanestad
(Coauthor: Assembly Member Huff)

February 22, 2007

An act to amend Sections 7620, 7660, 13050, 13100, 13101, 13151, 13152, 13200, 13600, 13601, and 13602 of the Probate Code, relating to decedents' estates.

LEGISLATIVE COUNSEL'S DIGEST

SB 553, as amended, Aanestad. Decedents' estates.

Existing law establishes simplified procedures for dealing with a decedent's estate valued under \$100,000, including authorizing the successor of the decedent to collect property due to the decedent without letters of administration or awaiting probate of a will. *Existing law permits a public administrator to dispose summarily of an estate valued under \$30,000 without court authorization.* Existing law excludes certain property from the determination of the value of the estate, including salary or other compensation owed to the decedent, not to exceed \$5,000. Existing law permits a court, pursuant to a petition, to determine succession to property in an estate valued under \$100,000, as specified. Existing law establishes an affidavit procedure by which a person may be designated as a successor to a decedent to a particular item of real property valued at no more than \$20,000. Existing law establishes an affidavit procedure by which a surviving spouse may collect salary or other compensation owed the deceased spouse when the amount does not exceed \$5,000, as specified. Existing law permits this amount to be adjusted to reflect increases in the cost of living.

This bill would increase the amount of salary or other compensation to be excluded from the determination of the value of the estate from \$5,000 to \$15,000. The bill would also increase the values in the transfer provisions *using simplified procedures or to determine succession to property*, as described above, from \$100,000 to ~~\$200,000 for an estate,~~ \$150,000. *The bill would increase the size of an estate of which the public administrator could summarily dispose from \$30,000 to \$50,000 and would increase from \$20,000 to \$100,000 for \$50,000 the value of real property, and from that may be transferred by affidavit.* The bill would also increase amounts from \$5,000 to \$15,000 for salary or compensation. The bill would delete provisions permitting the adjustment of the salary or other compensation values in connection with increases in the cost of living. The bill would also make related, conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7620 of the Probate Code is amended to
- 2 read:
- 3 7620. The public administrator of the county in which the estate
- 4 of a decedent may be administered shall promptly:
- 5 (a) Petition for appointment as personal representative of the
- 6 estate if no person having higher priority has petitioned for
- 7 appointment and the total value of the property in the decedent's
- 8 estate exceeds ~~the amount prescribed in Section 13100~~ *one hundred*
- 9 *fifty thousand dollars (\$150,000).*
- 10 (b) Petition for appointment as personal representative of any
- 11 other estate the public administrator determines is proper.
- 12 (c) Accept appointment as personal representative of an estate
- 13 when so ordered by the court, whether or not on petition of the
- 14 public administrator, after notice to the public administrator as
- 15 provided in Section 7621.
- 16 (d) Proceed with summary disposition of the estate as authorized
- 17 by Article 4 (commencing with Section 7660), if the total value
- 18 of the property in the decedent's estate does not exceed the amount
- 19 prescribed in Section 13100 and a person having higher priority
- 20 has not assumed responsibility for administration of the estate.
- 21 SEC. 2. Section 7660 of the Probate Code is amended to read:

1 7660. (a) If a public administrator takes possession or control
2 of an estate pursuant to this chapter, the public administrator may,
3 acting as personal representative of the estate, summarily dispose
4 of the estate in the manner provided in this article in either of the
5 following circumstances:

6 (1) The total value of the property in the decedent's estate does
7 not exceed the amount prescribed in Section 13100. The authority
8 provided by this paragraph may be exercised only upon order of
9 the court. The order may be made upon ex parte application. The
10 fee to be allowed to the clerk for the filing of the application is
11 one hundred eighty dollars (\$180). The authority for this summary
12 administration of the estate shall be evidenced by a court order for
13 summary disposition.

14 (2) The total value of the property in the decedent's estate does
15 not exceed ~~the amount prescribed in Section 13200~~ *fifty thousand*
16 *dollars (\$50,000)*. The authority provided by this paragraph may
17 be exercised without court authorization.

18 (A) A public administrator who is authorized to summarily
19 dispose of property of a decedent pursuant to this paragraph may
20 issue a written certification of Authority for Summary
21 Administration. The written certification is effective for 30 days
22 after the date of issuance.

23 (B) A financial institution, government or private agency,
24 retirement fund administrator, insurance company, licensed
25 securities dealer, or other person shall, without the necessity of
26 inquiring into the truth of the written certification of Authority for
27 Summary Administration and without court order or letters being
28 issued do all of the following:

29 (i) Provide the public administrator complete information
30 concerning any property held in the name of the decedent,
31 including the names and addresses of any beneficiaries or joint
32 owners.

33 (ii) Grant the public administrator access to a safe-deposit box
34 or storage facility rented in the name of the decedent for the
35 purpose of inspection and removal of property of the decedent.
36 Costs and expenses incurred in accessing a safe-deposit box or
37 storage facility shall be borne by the estate of the decedent.

38 (iii) Surrender to the public administrator any property of the
39 decedent that is held or controlled by the financial institution,

1 agency, retirement fund administrator, insurance company, licensed
2 securities dealer, or other person.

3 (C) Receipt by a financial institution, government or private
4 agency, retirement fund administrator, insurance company, licensed
5 securities dealer, or other person of the written certification
6 provided by this article shall do both of the following:

7 (i) Constitute sufficient acquittance for providing information
8 or granting access to a safe-deposit box or a storage facility and
9 for surrendering any property of the decedent.

10 (ii) Fully discharge the financial institution, government or
11 private agency, retirement fund administrator, insurance company,
12 licensed securities dealer, or other person from liability for any
13 act or omission of the public administrator with respect to the
14 property, a safe-deposit box, or a storage facility.

15 (b) Summary disposition may be made notwithstanding the
16 existence of the decedent's will, if the will does not name an
17 executor or if the named executor refuses to act.

18 (c) Nothing in this article precludes the public administrator
19 from filing a petition with the court under any other provision of
20 this code concerning the administration of the decedent's estate.

21 (d) Petitions filed pursuant to this article shall contain the
22 information required by Section 8002.

23 (e) If a public administrator takes possession or control of an
24 estate pursuant to this chapter, this article conveys the authority
25 of a personal representative as described in Section 9650 to the
26 public administrator to summarily dispose of the estates pursuant
27 to the procedures described in paragraphs (1) and (2) of subdivision
28 (a).

29 (f) The fee charged under paragraph (1) of subdivision (a) shall
30 be distributed as provided in Section 68085.4 of the Government
31 Code. When an application is filed under that paragraph, no other
32 fees shall be charged in addition to the uniform filing fee provided
33 for in Section 68085.4 of the Government Code.

34 SEC. 3. Section 13050 of the Probate Code is amended to read:

35 13050. (a) For the purposes of this part:

36 (1) Any property or interest or lien thereon which, at the time
37 of the decedent's death, was held by the decedent as a joint tenant,
38 or in which the decedent had a life or other interest terminable
39 upon the decedent's death, or which was held by the decedent and
40 passed to the decedent's surviving spouse pursuant to Section

1 13500, shall be excluded in determining the property or estate of
2 the decedent or its value. This excluded property shall include, but
3 not be limited to, property in a trust revocable by the decedent
4 during his or her lifetime.

5 (2) A multiple-party account to which the decedent was a party
6 at the time of the decedent's death shall be excluded in determining
7 the property or estate of the decedent or its value, whether or not
8 all or a portion of the sums on deposit are community property, to
9 the extent that the sums on deposit belong after the death of the
10 decedent to a surviving party, P.O.D. payee, or beneficiary. For
11 the purposes of this paragraph, the terms "multiple-party account,"
12 "party," "P.O.D. payee," and "beneficiary" are defined in Article
13 2 (commencing with Section 5120) of Chapter 1 of Part 2 of
14 Division 5.

15 (b) For the purposes of this part, all of the following property
16 shall be excluded in determining the property or estate of the
17 decedent or its value:

18 (1) Any vehicle registered under Division 3 (commencing with
19 Section 4000) of the Vehicle Code or titled under Division 16.5
20 (commencing with Section 38000) of the Vehicle Code.

21 (2) Any vessel numbered under Division 3.5 (commencing with
22 Section 9840) of the Vehicle Code.

23 (3) Any manufactured home, mobilehome, commercial coach,
24 truck camper, or floating home registered under Part 2
25 (commencing with Section 18000) of Division 13 of the Health
26 and Safety Code.

27 (c) For the purposes of this part, the value of the following
28 property shall be excluded in determining the value of the
29 decedent's property in this state:

30 (1) Any amounts due to the decedent for services in the Armed
31 Forces of the United States.

32 (2) The amount, not exceeding fifteen thousand dollars
33 (\$15,000), of salary or other compensation, including compensation
34 for unused vacation, owing to the decedent for personal services
35 from any employment.

36 SEC. 4. Section 13100 of the Probate Code is amended to read:

37 13100. Excluding the property described in Section 13050, if
38 the gross value of the decedent's real and personal property in this
39 state does not exceed ~~two hundred thousand dollars (\$200,000)~~
40 *one hundred fifty thousand dollars (\$150,000)* and if 40 days have

1 elapsed since the death of the decedent, the successor of the
2 decedent may, without procuring letters of administration or
3 awaiting probate of the will, do any of the following with respect
4 to one or more particular items of property:

5 (a) Collect any particular item of property that is money due
6 the decedent.

7 (b) Receive any particular item of property that is tangible
8 personal property of the decedent.

9 (c) Have any particular item of property that is evidence of a
10 debt, obligation, interest, right, security, or chose in action
11 belonging to the decedent transferred, whether or not secured by
12 a lien on real property.

13 SEC. 5. Section 13101 of the Probate Code is amended to read:

14 13101. (a) To collect money, receive tangible personal
15 property, or have evidences of a debt, obligation, interest, right,
16 security, or chose in action transferred under this chapter, an
17 affidavit or a declaration under penalty of perjury under the laws
18 of this state shall be furnished to the holder of the decedent's
19 property stating all of the following:

20 (1) The decedent's name.

21 (2) The date and place of the decedent's death.

22 (3) "At least 40 days have elapsed since the death of the
23 decedent, as shown in a certified copy of the decedent's death
24 certificate attached to this affidavit or declaration."

25 (4) Either of the following, as appropriate:

26 (A) "No proceeding is now being or has been conducted in
27 California for administration of the decedent's estate."

28 (B) "The decedent's personal representative has consented in
29 writing to the payment, transfer, or delivery to the affiant or
30 declarant of the property described in the affidavit or declaration."

31 (5) "The current gross fair market value of the decedent's real
32 and personal property in California, excluding the property
33 described in Section 13050 of the California Probate Code, does
34 not exceed ~~two hundred thousand dollars (\$200,000)~~ *one hundred*
35 *fifty thousand dollars (\$150,000)*."

36 (6) A description of the property of the decedent that is to be
37 paid, transferred, or delivered to the affiant or declarant.

38 (7) The name of the successor of the decedent (as defined in
39 Section 13006 of the California Probate Code) to the described
40 property.

(8) Either of the following, as appropriate:

(A) “The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent’s interest in the described property.”

(B) “The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent’s interest in the described property.”

(9) “No other person has a superior right to the interest of the decedent in the described property.”

(10) “The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant.”

(11) “The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) If the particular item of property to be transferred under this chapter is a debt or other obligation secured by a lien on real property and the instrument creating the lien has been recorded in the office of the county recorder of the county where the real property is located, the affidavit or declaration shall satisfy the requirements both of this section and of Section 13106.5.

(d) A certified copy of the decedent’s death certificate shall be attached to the affidavit or declaration.

(e) If the decedent’s personal representative has consented to the payment, transfer, or delivery of the described property to the affiant or declarant, a copy of the consent and of the personal representative’s letters shall be attached to the affidavit or declaration.

SEC. 6. Section 13151 of the Probate Code is amended to read:

13151. Exclusive of the property described in Section 13050, if a decedent dies leaving real property in this state and the gross value of the decedent’s real and personal property in this state does not exceed ~~two hundred thousand dollars (\$200,000)~~ *one hundred fifty thousand dollars (\$150,000)* and 40 days have elapsed since the death of the decedent, the successor of the decedent to an

1 interest in a particular item of property that is real property, without
2 procuring letters of administration or awaiting the probate of the
3 will, may file a petition in the superior court of the county in which
4 the estate of the decedent may be administered requesting a court
5 order determining that the petitioner has succeeded to that real
6 property. A petition under this chapter may include an additional
7 request that the court make an order determining that the petitioner
8 has succeeded to personal property described in the petition.

9 SEC. 7. Section 13152 of the Probate Code is amended to read:

10 13152. (a) The petition shall be verified by each petitioner,
11 shall contain a request that the court make an order under this
12 chapter determining that the property described in the petition is
13 property passing to the petitioner, and shall state all of the
14 following:

15 (1) The facts necessary to determine that the petition is filed in
16 the proper county.

17 (2) The gross value of the decedent's real and personal property
18 in this state, excluding the property described in Section 13050,
19 as shown by the inventory and appraisal attached to the petition,
20 does not exceed ~~two hundred thousand dollars (\$200,000)~~ *one*
21 *hundred fifty thousand dollars (\$150,000)*.

22 (3) A description of the particular item of real property in this
23 state which the petitioner alleges is property of the decedent passing
24 to the petitioner, and a description of the personal property which
25 the petitioner alleges is property of the decedent passing to the
26 petitioner if the requested order also is to include a determination
27 that the described personal property is property passing to the
28 petitioner.

29 (4) The facts upon which the petitioner bases the allegation that
30 the described property is property passing to the petitioner.

31 (5) Either of the following, as appropriate:

32 (A) A statement that no proceeding is being or has been
33 conducted in this state for administration of the decedent's estate.

34 (B) A statement that the decedent's personal representative has
35 consented in writing to use of the procedure provided by this
36 chapter.

37 (6) Whether estate proceedings for the decedent have been
38 commenced in any other jurisdiction and, if so, where those
39 proceedings are pending or were conducted.

(7) The name, age, address, and relation to the decedent of each heir and devisee of the decedent, the names and addresses of all persons named as executors of the will of the decedent, and, if the petitioner is the trustee of a trust that is a devisee under the will of the decedent, the names and addresses of all persons interested in the trust, as determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 15804, so far as known to any petitioner.

(8) The name and address of each person serving as guardian or conservator of the estate of the decedent at the time of the decedent's death, so far as known to any petitioner.

(b) There shall be attached to the petition an inventory and appraisal in the form set forth in Section 8802 of the decedent's real and personal property in this state, excluding the property described in Section 13050. The appraisal shall be made by a probate referee selected by the petitioner from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located. The appraisal shall be made as provided in Part 3 (commencing with Section 8800) of Division 7. The petitioner may appraise the assets which a personal representative could appraise under Section 8901.

(c) If the petitioner bases his or her claim to the described property upon the will of the decedent, a copy of the will shall be attached to the petition.

(d) If the decedent's personal representative has consented to use of the procedure provided by this chapter, a copy of the consent shall be attached to the petition.

SEC. 8. Section 13200 of the Probate Code is amended to read:

13200. (a) No sooner than six months from the death of a decedent, a person or persons claiming as successor of the decedent to a particular item of property that is real property may file in the superior court in the county in which the decedent was domiciled at the time of death, or if the decedent was not domiciled in this state at the time of death, then in any county in which real property of the decedent is located, an affidavit in the form prescribed by the Judicial Council pursuant to Section 1001 stating all of the following:

(1) The name of the decedent.

(2) The date and place of the decedent's death.

1 (3) A legal description of the real property and the interest of
2 the decedent therein.

3 (4) The name and address of each person serving as guardian
4 or conservator of the estate of the decedent at the time of the
5 decedent's death, so far as known to the affiant.

6 (5) "The gross value of all real property in the decedent's estate
7 located in California, as shown by the inventory and appraisal
8 attached to this affidavit, excluding the real property described in
9 Section 13050 of the California Probate Code, does not exceed
10 ~~one hundred thousand dollars (\$100,000).~~ *fifty thousand dollars*
11 *(\$50,000).*"

12 (6) "At least six months have elapsed since the death of the
13 decedent as shown in a certified copy of decedent's death certificate
14 attached to this affidavit."

15 (7) Either of the following, as appropriate:

16 (A) "No proceeding is now being or has been conducted in
17 California for administration of the decedent's estate."

18 (B) "The decedent's personal representative has consented in
19 writing to use of the procedure provided by this chapter."

20 (8) "Funeral expenses, expenses of last illness, and all unsecured
21 debts of the decedent have been paid."

22 (9) "The affiant is the successor of the decedent (as defined in
23 Section 13006 of the Probate Code) and to the decedent's interest
24 in the described property, and no other person has a superior right
25 to the interest of the decedent in the described property."

26 (10) "The affiant declares under penalty of perjury under the
27 law of the State of California that the foregoing is true and correct."

28 (b) For each person executing the affidavit, the affidavit shall
29 contain a notary public's certificate of acknowledgment identifying
30 the person.

31 (c) There shall be attached to the affidavit an inventory and
32 appraisal of the decedent's real property in this state, excluding
33 the real property described in Section 13050. The inventory and
34 appraisal of the real property shall be made as provided in Part 3
35 (commencing with Section 8800) of Division 7. The appraisal shall
36 be made by a probate referee selected by the affiant from those
37 probate referees appointed by the Controller under Section 400 to
38 appraise property in the county where the real property is located.

1 (d) If the affiant claims under the decedent's will and no estate
2 proceeding is pending or has been conducted in California, a copy
3 of the will shall be attached to the affidavit.

4 (e) A certified copy of the decedent's death certificate shall be
5 attached to the affidavit. If the decedent's personal representative
6 has consented to the use of the procedure provided by this chapter,
7 a copy of the consent and of the personal representative's letters
8 shall be attached to the affidavit.

9 (f) The affiant shall mail a copy of the affidavit and attachments
10 to any person identified in paragraph (4) of subdivision (a).

11 SEC. 9. Section 13600 of the Probate Code is amended to read:

12 13600. (a) At any time after a husband or wife dies, the
13 surviving spouse or the guardian or conservator of the estate of
14 the surviving spouse may, without procuring letters of
15 administration or awaiting probate of the will, collect salary or
16 other compensation owed by an employer for personal services of
17 the deceased spouse, including compensation for unused vacation,
18 not in excess of fifteen thousand dollars (\$15,000) net.

19 (b) Not more than fifteen thousand dollars (\$15,000) net in the
20 aggregate may be collected by or for the surviving spouse under
21 this chapter from all of the employers of the decedent.

22 (c) For the purposes of this chapter, a guardian or conservator
23 of the estate of the surviving spouse may act on behalf of the
24 surviving spouse without authorization or approval of the court in
25 which the guardianship or conservatorship proceeding is pending.

26 (d) The fifteen thousand dollar (\$15,000) net limitation set forth
27 in subdivisions (a) and (b) does not apply to the surviving spouse
28 or the guardian or conservator of the estate of the surviving spouse
29 of a firefighter or peace officer described in subdivision (a) of
30 Section 22820 of the Government Code.

31 SEC. 10. Section 13601 of the Probate Code is amended to
32 read:

33 13601. (a) To collect salary or other compensation under this
34 chapter, an affidavit or a declaration under penalty of perjury under
35 the laws of this state shall be furnished to the employer of the
36 deceased spouse stating all of the following:

- 37 (1) The name of the decedent.
38 (2) The date and place of the decedent's death.
39 (3) Either of the following, as appropriate:

1 (A) “The affiant or declarant is the surviving spouse of the
2 decedent.”

3 (B) “The affiant or declarant is the guardian or conservator of
4 the estate of the surviving spouse of the decedent.”

5 (4) “The surviving spouse of the decedent is entitled to the
6 earnings of the decedent under the decedent’s will or by intestate
7 succession and no one else has a superior right to the earnings.”

8 (5) “No proceeding is now being or has been conducted in
9 California for administration of the decedent’s estate.”

10 (6) “Sections 13600 to 13605, inclusive, of the California
11 Probate Code require that the earnings of the decedent, including
12 compensation for unused vacation, not in excess of fifteen thousand
13 dollars (\$15,000) net, be paid promptly to the affiant or declarant.”

14 (7) “Neither the surviving spouse, nor anyone acting on behalf
15 of the surviving spouse, has a pending request to collect
16 compensation owed by another employer for personal services of
17 the decedent under Sections 13600 to 13605, inclusive, of the
18 California Probate Code.”

19 (8) “Neither the surviving spouse, nor anyone acting on behalf
20 of the surviving spouse, has collected any compensation owed by
21 an employer for personal services of the decedent under Sections
22 13600 to 13605, inclusive, of the California Probate Code except
23 the sum of ____ dollars (\$____) which was collected from ____.”

24 (9) “The affiant or declarant requests that he or she be paid the
25 salary or other compensation owed by you for personal services
26 of the decedent, including compensation for unused vacation, not
27 to exceed fifteen thousand dollars (\$15,000) net, less the amount
28 of ____ dollars (\$____) which was previously collected.”

29 (10) “The affiant or declarant affirms or declares under penalty
30 of perjury under the laws of the State of California that the
31 foregoing is true and correct.”

32 (b) Reasonable proof of the identity of the surviving spouse
33 shall be provided to the employer. If a guardian or conservator is
34 acting for the surviving spouse, reasonable proof of the identity
35 of the guardian or conservator shall also be provided to the
36 employer. Proof of identity that is sufficient under Section 13104
37 is sufficient proof of identity for the purposes of this subdivision.

38 (c) If a person presenting the affidavit or declaration is a person
39 claiming to be the guardian or conservator of the estate of the
40 surviving spouse, the employer shall be provided with reasonable

1 proof, satisfactory to the employer, of the appointment of the
2 person to act as guardian or conservator of the estate of the
3 surviving spouse.

4 SEC. 11. Section 13602 of the Probate Code is amended to
5 read:

6 13602. If the requirements of Section 13600 are satisfied, the
7 employer to whom the affidavit or declaration is presented shall
8 promptly pay the earnings of the decedent, including compensation
9 for unused vacation, not in excess of fifteen thousand dollars
10 (\$15,000) net, to the person presenting the affidavit or declaration.

O